

*Standards  
Of  
Conduct:*

*A Guide To Compliance*



**Methodist**<sup>SM</sup>  
**Le Bonheur Healthcare**

January 2007



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Dear Methodist Le Bonheur Healthcare Associate:

The Methodist Le Bonheur Healthcare (MLH) Standards of Conduct are provided to assist each of you in addressing legal, regulatory, or ethical issues that you may encounter as a MLH Associate. It is our goal that you will use these Standards as a guide to help you understand the legal and ethical obligations of your job. Our Standards of Conduct apply to everyone working at MLH, including Associates, Leaders, Physicians, Volunteers, Students, Vendors, Business Associates, Contract Personnel, Senior Executives, Officers, and the Board of Directors. If you have questions concerning the content of these Standards or business situations not covered in these Standards, please contact your supervisor, your Compliance Liaison or our Corporate Compliance Department.

The MLH Standards of Conduct were developed to further promote and enhance the long-standing culture of compliance in our organization. Leaders are responsible for ensuring that Associates understand and comply with our Standards of Conduct and with any applicable laws, regulations, and guidelines specific to their role here at MLH. Associates are responsible for reading and understanding the Standards of Conduct, and are accountable for complying with these Standards. Associates are encouraged to ask questions if uncertain about ethical and legal conduct.

MLH strives toward building confidence in our Associates to report issues that could potentially violate applicable laws, regulations, and/or our Standards of Conduct. If you suspect that a violation has occurred, you should immediately contact your supervisor, a Compliance Liaison, the Corporate Compliance Department, or call the Compliance Hotline at 1-888-220-2163. You have the assurance, as communicated in our Non-Retaliation Policy, that MLH will not tolerate retaliation or retribution against any Associate who, in good faith, brings an issue forward.

As the regulatory environment continues to change, we must constantly monitor our internal operations to ensure that we are in compliance with the laws and regulations facing us today, tomorrow, and in the future. By adhering to and embracing these Standards, you are demonstrating your commitment to our mission of providing high quality, cost-effective healthcare to benefit the communities we serve.

Sincerely,

A handwritten signature in black ink that reads "Gary S. Shorb". The signature is written in a cursive, slightly slanted style.

Gary S. Shorb  
President and Chief Executive Officer

# *Methodist Le Bonheur Healthcare*

## ***OUR MISSION***

Methodist Le Bonheur Healthcare, in partnership with its medical staffs, will be the leader in providing high quality, cost effective health care to benefit the communities we serve. Services will be provided in a manner, which supports the health ministries and Social Principles of The United Methodist Church.

## ***OUR VISION***

Methodist Le Bonheur Healthcare is a faith-based health care system that in partnership with its physicians will be nationally recognized for delivering outstanding care to each patient.

## ***OUR VALUES***

Our Corporate Compliance Program and Standards of Conduct include the following core values. These core values express our most sacred, non-negotiable beliefs as an organization. We incorporate these values in our hiring process, and we use these values as a guide over our everyday work.

- Service:** We commit to providing service that exceeds expectations with respect, professionalism, and a spirit of caring.
- Quality:** We commit to providing the highest quality of care through our consistent delivery of evidence-based best practices, continuous learning and improvement.
- Integrity:** We commit to behaving in a way that is based on fair treatment and the highest ethical standards reflecting the trust placed in us by our patients.
- Teamwork:** We commit to fostering a culture of collaboration, accountability and dependability with a strong commitment to diversity.

# ***INTRODUCTION: MLH STANDARDS OF CONDUCT***

## **Purpose of the Standards of Conduct**

Methodist Le Bonheur Healthcare is committed to conducting business activities in compliance with all applicable federal, state and local laws and regulations, company policies, and our Standards of Conduct. To further promote and enhance the culture of compliance at Methodist Le Bonheur Healthcare (MLH), the Standards of Conduct (Standards) were developed to provide a set of guidelines to help our Associates understand the legal and ethical obligations of your job. These Standards are an important part of the MLH Corporate Compliance Program.

Methodist Le Bonheur Healthcare's reputation and its ability to carry out its mission can be jeopardized when any person associated with the organization violates the law or behaves in an unethical or questionable manner. MLH expects our Associates to demonstrate business behavior reflective of high ethical standards and integrity, and to avoid even the appearance of wrongful or questionable conduct. Your proper conduct contributes to meeting our goal to foster a corporate culture of high ethical standards and community responsibility.

If you encounter situations not covered or have questions concerning content in the Standards of Conduct, please contact your supervisor, your Compliance Liaison, or the Corporate Compliance Department.

All Associates at MLH are responsible for reporting issues that could potentially violate applicable laws, regulations, policies and procedures, or our Standards of Conduct. You should report suspected compliance violations to your supervisor, a Compliance Liaison, the Corporate Compliance Department, or call the Corporate Compliance Hotline at 1-888-220-2163.

## **Who Is Covered?**

The Methodist Le Bonheur Healthcare Standards of Conduct apply to all MLH Associates, Leaders, Officers, Senior Executives, CEO's, Volunteers, Contracted Personnel (i.e., Medical Directors and Agency Staff), Physicians, Vendors and Agents, Other Professionals (i.e., Healthcare, Finance, Accounting), and the Board of Directors. All of these individuals are expected to read, understand, and comply with our Standards of Conduct.

## **What Do We Need to Do to Act Appropriately?**

If you find yourself in a situation where you are unsure of the ethical implications, ask yourself a few simple questions:

- Is this in the best interest of Methodist Healthcare and the patients we serve?
- Is this the right thing to do?
- Are my actions legal?
- Am I being fair and honest?
- Will my action stand the test of time?
- How will I feel about myself afterwards?
- Would I be proud to read about this in the newspaper or see it on the news?

## ***CORPORATE COMPLIANCE PROGRAM***

The Corporate Compliance Department has the day-to-day responsibility for the system-wide MLH Corporate Compliance Program. **Lynn Field**, the **Chief Compliance Officer**, has been appointed to direct and implement the Corporate Compliance Program.

### **Contact Information for the Chief Compliance Officer:**

Lynn Field, Assistant General Counsel, Chief Compliance Officer  
Methodist Le Bonheur Healthcare  
1211 Union Avenue, Suite 700  
Memphis, TN 38104  
Office: (901) 516-0563 Fax: (901) 516-0569  
E-mail: fieldl@methodisthealth.org

### **Contact Information for the Corporate Compliance Department:**

Linda Maners, Manager, Corporate Compliance  
Office: (901) 516-0735 Fax: (901) 516-0569  
E-mail: manersl@methodisthealth.org

Kim Sharpe, Senior Paralegal  
Office: (901) 516-0868 Fax: (901) 516-0569  
E-mail: sharpek@methodisthealth.org

Address: Methodist Le Bonheur Healthcare  
Corporate Compliance Department  
1211 Union Avenue, Suite 700  
Memphis, TN 38104

In addition to the Corporate Compliance Department Staff, the MLH Corporate Compliance Program includes the functions of the following committees:

- **Audit and Compliance Committee:** Responsible for the oversight of the Compliance Program and is comprised of members of the Board of Directors. The Chief Compliance Officer reports on matters of compliance directly to the Audit and Compliance Committee.
- **Senior Compliance Steering Committee:** Responsible for the strategic compliance review and planning. Comprised of the Chief Executive Officer, Chief Financial Officer, Chief Legal Officer, and the Chief Compliance Officer.
- **Compliance Assessment Team:** Responsible for reviewing broad compliance issues and potential violations, and recommending appropriate corrective and/or preventive actions. This multi-disciplinary group, chaired by the Chief Compliance Officer, consists of representatives from Affiliated Services Division, Corporate Compliance, Corporate Audit Services, Health Information Management, Legal, Patient Access Services, Patient Financial Services, Physician Services, MHIRB Administration, and Revenue Management.

**Compliance Liaisons** have been designated at major facility sites to help further operationalize compliance and to ensure the oversight of regulatory compliance for all services at the entity/departmental level. The Compliance Liaisons assist the Corporate Compliance Department in:

1. The implementation of Compliance Program elements and initiatives.
2. The investigation and correction of compliance related issues.
3. The communication of Corporate Compliance Program information to Associates.

## ***Corporate Compliance Program Training***

### **System Orientation Training**

All new Associates are required to complete Compliance Training in System Orientation within 30 days of hire. Documentation of this training should be maintained in the Corporate Compliance Department. This training includes coverage of the elements of the MLH Corporate Compliance Program, including our Standards of Conduct, the Corporate Compliance Hotline, fraud and abuse prevention, and introduction to compliance policies.

### **Annual Compliance Training**

All Associates are required to complete annual compliance training. Leaders are accountable for conducting this training session, utilizing the training materials provided by the Corporate Compliance Department. All Associates should sign the compliance training sign-in sheet, and a copy of this documentation should be maintained in the Associate's file or the departmental file and on file in the Corporate Compliance Department.

In addition, periodic training messages may be communicated by the Corporate Compliance Department to the organization or individual departments on an as needed basis to notify our Associates about regulatory or legal changes or updates, compliance alerts, identified risk areas, and other compliance related topics.

### **Specialized Training**

Department Leaders are accountable for ensuring that Associates receive additional specialized compliance training where indicated, such as for billing and coding, marketing, accounting, etc. Associates should receive instruction on applicable organizational policies and procedures, regulations, laws, and guidelines to ensure effective compliance, and to prevent fraud, abuse, errors, or waste. You should be notified by your supervisor if your job requires this specialized training.

## ***Corporate Compliance Department Web Site***

Associates may access the Corporate Compliance web site on our Intranet – MOLLI (Methodist On-Line Link to Information). This web site contains:

- Contact Information: Chief Compliance Officer, and Compliance Staff
- MLH Standards Of Conduct
- Compliance Policies and Procedures
- Compliance Training Information
- Compliance Program Information and Resources
- MLH Entity Specific Corporate Compliance Plans
- Corporate Compliance Hotline Information
- Link to the OIG Sanction Check Site (Office of Inspector General) and other informational sites.

## ***Measuring Program Effectiveness***

At Methodist Le Bonheur Healthcare, we are committed to continuously assess the effectiveness of our Corporate Compliance Program in order to evaluate organizational compliance effectiveness and to implement improvements. Internal audits are conducted on identified areas that have potential regulatory or compliance risks or implications. Assigned Leaders conduct routine self-audits to monitor activities to ensure compliance with organizational policies and procedures and with regulatory requirements. If compliance violations are identified during an audit or evaluation, corrective action plans will be developed, implemented, and reviewed.

### **Who Must Read, Understand, and Comply With the Methodist Le Bonheur Healthcare Standards of Conduct?**

All Methodist Le Bonheur Healthcare Associates, Leaders, Physicians, Vendors, Business Associates, Contract Personnel, Volunteers, CEO's, Senior Executives, Officers, and the Board of Directors.

## *Associate Responsibilities*

### **It Is Every Associate's Responsibility To:**

- Read, understand, and adhere to our Standards of Conduct. For questions about or to report violations of our Standards, you should contact your supervisor, Compliance Liaison, or the Corporate Compliance Department.
- Act appropriately. You are responsible for your conduct and behavior. If you are uncertain about the appropriateness of an action or behavior, contact your supervisor, your Compliance Liaison, or the Corporate Compliance Department.
- Show your commitment to do the right thing.
- Promote citizenship by being knowledgeable about and complying with the applicable laws, regulations, and guidelines specific to your job.
- Promote teamwork efforts and cooperation with Associates, physicians, and other healthcare team members.
  - Act in an ethical and honest manner to develop trust among team members.
  - Demonstrate professional respect and dignity.
  - Avoid gossip.
  - Develop open communication.
- Respect the diversity of Associates and team members, and value and appreciate personal and cultural differences.
- Comply with the general legal standards of conduct. Integrity and adherence to the law are basic obligations for everyone. The following are examples of activities that are illegal and a violation of MLH policy:
  - Engaging in bribery.
  - Stealing company property or the property of another.
  - Violating any federal, state or local law or regulation.
  - Committing fraud.

## ***QUESTIONS AND ANSWERS:***

**Q: I know an Associate who has violated our Standards of Conduct. Should I report this? And, what will happen to the Associate?**

A: Associates are responsible and are held accountable for reporting suspected or known violations of our Standards of Conduct, policies and procedures, and laws and regulations. Violations should be reported to your supervisor, the Corporate Compliance Department, or to a Compliance Liaison. A Corporate Compliance violation may also be reported anonymously on the Compliance Hotline at 1-888-220-2163. Any Associate found to be in violation of our Standards of Conduct, organizational policies and procedures, or laws and regulations may be subject to discipline or corrective action, up to and including termination of their employment with Methodist Le Bonheur Healthcare.

Note: Associates, with knowledge of a compliance violation and who fail to report the violation, may face discipline or corrective action.

**Q: What should I do if I believe that I have been requested to perform a task that violates MLH policies and procedures, our Standards of Conduct, or any laws or regulations?**

A: If you feel that you have been asked to commit a potential violation of a company policy or procedure, our Standards of Conduct, or any laws or regulations, you should:

1. Clarify with your supervisor or Department Leader the specific request you have been asked to perform. This may rule out a misunderstanding or mistake made.
2. If there is no misunderstanding and you believe that your action could lead to a potential violation, then report this to senior management and the Corporate Compliance Department immediately.
3. Do not perform any task that you know will result in a compliance violation. Remember that you are accountable for your actions!

**Q: My supervisor informed me that I should report suspected compliance violations in good faith. What does good faith mean?**

A: “Good Faith” means to tell the truth when reporting facts or violations. Do not create false reports, bend the truth, or file accusations against Associates, Leaders, or others to get them in trouble. If an Associate is found to purposely mislead another through the use of false statements or filing a false report against an Associate or individual, that Associate may face discipline or corrective action.

## ***Leader Responsibilities***

Methodist Le Bonheur Healthcare Leaders are responsible for promoting an effective culture of compliance in our organization. MLH Leaders are accountable for demonstrating MLH values, ethics, and business integrity in our work environment.

As a Leader (Supervisor, Manager, Director), you are responsible for creating a working atmosphere that is conducive to effective compliance and freedom from retaliation for the reporting of compliance violations. Leaders are encouraged to promote teamwork between Associates, physicians, and other support individuals in an ongoing effort to set the standard in our community for high quality, cost-effective healthcare, regulatory compliance, and business management.

### **It Is Every Leader's Responsibility To:**

- Promote and enforce compliance to our Standards of Conduct, organizational policies and procedures, and applicable laws and regulations in the day-to-day operations of business at MLH.
- Provide job-specific training to Associates regarding applicable laws and regulations, policies and procedures, and our Standards of Conduct, to ensure Associates or team members have sufficient information and knowledge to prevent errors or fraud.
- Act as a role model for Associates to observe. For example, demonstrate honest conduct when accurately documenting time worked or business expenses.
- Cooperate with Auditors who audit compliance risk areas in the organization.
- Act diligently to address and resolve compliance issues to prevent the escalation of an issue into a major problem for the organization:
  - Identify potential compliance risk areas or violations.
  - Take appropriate action.
  - Report compliance violations to the Corporate Compliance Department.
  - Develop and implement effective processes and procedures.
  - Document issues and properly maintain documentation.
- Maintain open channels of communication between management and Associates, and provide guidance to Associates regarding our Standards of Conduct, policies and procedures, and applicable laws, regulations, and guidelines.
- Evaluate and document the Associate's compliance performance in the annual Performance Evaluation. Meet with the Associate to discuss the performance evaluation together and to provide feedback or recommendations to promote a culture of ethical conduct and effective compliance in the work area and throughout the organization. Use this time with individual Associates to promote and to reinforce training for the MLH core values of Service, Quality, Integrity, and Teamwork.

## ***QUESTIONS AND ANSWERS:***

**Q: What can I do as a Leader to promote a work environment that encourages Associates to feel comfortable reporting compliance violations?**

A MLH Leaders are responsible for creating a work environment that makes Associates feel comfortable to come forward and report suspected or actual compliance violations, to ask questions, to share information, or to express concerns without fear of retaliation or retribution by supervisors or co-workers. And, Leaders should act diligently to address and resolve compliance issues to prevent the escalation of the issue into a major problem for the organization.

Also, Leaders should prevent or immediately address acts of retaliation against Associates and other workforce members who report, in good faith, alleged violations of the Standards of Conduct, laws, regulations, and policies and procedures by:

- Enforcing Methodist Le Bonheur Healthcare's Non-Retaliation Policy.
- Investigating reports of retaliation.
- Reporting compliance violations to the Corporate Compliance Department.
- Applying corrective action or disciplinary measures for retaliatory actions against an Associate.

**Q: As the Director of a Department at MLH, I was instructed to provide job-specific compliance training to the Associates that I supervise. What exactly do the Associates need to learn and why is this necessary?**

A. Department Leaders are accountable for ensuring that Associates are notified about and receive specialized compliance training where indicated, such as for billing, coding, accounting, cost reporting, etc. Associates should receive instruction on applicable organizational policies and procedures, regulations, laws, and guidelines to ensure effective compliance in the organization, and to prevent fraud, abuse, errors, or waste. Associates must have the proper knowledge, resources, and understanding needed to successfully complete their job duties. Leaders should document compliance training received and maintain documentation in the Associate's file or departmental file.

**Q: Government agencies are diligently monitoring for Medicare and Medicaid fraud and abuse. What does the government consider to be fraud and abuse in healthcare? Please provide examples. And, what are the benefits resulting from government investigations of fraud and abuse?**

A: The government is pursuing the recovery of Medicare and Medicaid funds that were obtained by healthcare providers by fraudulent means. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare and Medicaid programs. The U.S. Department of Health and Human Services (DHHS), Office of Inspector General (OIG) oversees the investigations of fraud, waste, and abuse in healthcare. The OIG also monitors the Medicare and Medicaid Programs through audits and evaluations. The OIG has the authority to impose

administrative sanctions. Other government enforcement agencies collaborate in these investigations, including the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI) – principal investigative agency of the DOJ, and the Tennessee Bureau of Investigation (TBI), and Office of Inspector General, State of Tennessee – TennCare Fraud.

Examples of occurrences of fraud, waste, and abuse in the healthcare industry that government agencies are investigating include the following:

- Billing for items and services that are not medically necessary.
- Billing for items and services not actually rendered. (i.e., office visit, lab tests)
- Duplicate billing.
- Upcoding for higher reimbursement than what actually entitled to receive.
- Falsifying information or documentation to maximize reimbursement.
- Knowingly failing to report and return overpayments made by Federal Healthcare Programs.
- Falsifying Certificates of Medical Necessity. (i.e., Need for Ambulance Transportation.)
- Unbundling charges to enhance reimbursement by billing components of a service separately that should be billed as a single service.
- Billing services as provided by a physician, when actually provided by an intern, resident, or fellow in a teaching hospital.
- Employing persons excluded from participation in Federal Healthcare Programs.

The OIG has devoted significant resources to investigating Medicare and Medicaid fraud, waste, and abuse, and to monitoring of these programs. As a result, the substantial benefits of these activities are:

- To provide cost-effective delivery of Medicare, Medicaid/TennCare, and SCHIP (The State Children’s Health Insurance Program) services.
- To promote quality of care to program beneficiaries.
- To decrease the potential for fraud, waste, and abuse.
- To implement criminal, civil, and/or administrative actions against perpetrators of fraud and abuse.

## ***Vendors, Suppliers, Contractors, and Sales Representatives Responsibilities***

Methodist Le Bonheur Healthcare has established guidelines for our business partners – Vendors, Suppliers, Contractors, and Sales Representatives - in MLH policies and our Standards of Conduct. MLH shows our commitment to our business partners and requires their compliance to laws and regulations, and ethical conduct in our organization.

### **Vendors, Suppliers, Contractors, And Sales Representatives Are Required To:**

- Read, understand, and observe the MLH Standards of Conduct.
- Cooperate in Compliance Program requirements as requested by MLH.
- Promote a culture of ethical conduct.
- Report compliance issues or violations to the Materials Management Department or to the Corporate Compliance Department at MLH.
- Maintain confidentiality of information (Business and Patient).
- Report to MLH if you have knowledge of your company's or a company employee's pending or current exclusion from Federal Healthcare Programs (i.e., Medicare, Medicaid/TennCare).

### **Methodist Le Bonheur Healthcare's Responsibilities Are:**

- Keep our commitments with business partners.
- Conduct initial and periodic OIG Sanction Checks on contractors, vendors, and suppliers to prevent transactions with excluded businesses.
- Conduct business activities in compliance with our policies and procedures, and laws and regulations. Exhibit professional, ethical, and objective conduct and treatment toward business partners. For additional guidance, please see *Ethical Guidelines for Interacting with Vendors Policy (scheduled for release in January 2007)*.
- Work only with those business partners who demonstrate ethical and legal business conduct.
- Strictly enforce the Anti-Kickback Laws at MLH. Associates never give, pay, seek, or receive anything of value to bring about referrals for medical services or goods payable under Medicare or Medicaid, or as a reward for referrals, or in exchange for patronage. You have a duty to avoid conflicts of interest where your business decisions can be or appear to be influenced.

- Demonstrate objectivity when making business decisions. Base these decisions on the vendor's, supplier's, contractor's, or sales representative's product and service quality, cost, reputation, past performance, and ability to meet the needs of MLH and our patients.
- Adhere to the terms and conditions of contracts with vendors, suppliers, and contractors.

## ***QUESTIONS AND ANSWERS:***

**Q: One of our physicians complained that a vendor offered certain personal incentives (a family trip to Hawaii) to him if he agreed to use the vendor's product exclusively for his patients. Does this violate any law or hospital policy?**

A: This violates MLH policy, as well as, the Anti-Kickback Statute, in which an individual must never give, pay, seek, or receive anything of value to bring about referrals for medical services or goods payable under Medicare or Medicaid, or as a reward for referrals, or in exchange for patronage. The vendor's offer should be immediately reported to the Materials Management Department.

**Q: A vendor asked if he could leave product pamphlets in the unit waiting rooms with his company card displayed to advertise his home medical equipment products and services to patients and their families. Can the vendor do this?**

A: No. At MLH, vendors are not permitted to display promotional products or product information within MLH or MLH affiliated facilities.

The Materials Management Department or the Corporate Compliance Department may be contacted for questions regarding vendors.

**Q: If a vendor issues rebates for equipment and supplies purchased by our Department may we use these funds for Department educational purposes?**

A: No. At MLH, all vendor issued rebate checks (as well as any remitted discounts, credits, or payment vouchers) should be immediately forwarded to the Materials Management Department to be processed. Materials Management is responsible for tracking and reporting rebates and related information in accordance with regulatory requirements. Vendor rebate checks should never be cashed or deposited by the Department for any purpose. For additional guidance, please see *Ethical Guidelines for Interacting with Vendors Policy (scheduled for release in January 2007)*.

## ***PATIENT CARE ASPECTS***

As an Associate, you must recognize that care of the sick is our prime responsibility and we should strive at all times to provide the highest quality of care to those in need of health services. All patients will be treated with dignity, respect and courtesy. Patients and/or their families will be involved in healthcare decisions to the extent that such is practical and possible. All patients should be informed about the therapeutic alternatives and the risks associated with the chosen course of treatment. In all aspects of care, the patient's background, culture, religion and heritage will be considered and respected. We will not discriminate against a patient based on race, ethnicity, religion, gender, sexual orientation, national origin, age, disability, veteran status, or ability to pay. Patients will have the access to information to inform them of their rights and the various services available to assist them while they are being cared for by our organization.

### **Ethics of Care**

The Organization's Ethical Advisory Committee is available for consultation on ethical issues arising in the care of the patient. Its role includes providing education to caregivers (physicians, researchers, other healthcare providers), patients and their families on ethical issues and dilemmas in healthcare.

### **Conflicts of Care**

Conflicts among caregivers and/or patients with respect to patient care decisions should be resolved fairly and objectively. Patient representatives will be available to assist or oversee resolution of the conflict. Other staff and second opinions will be involved as needed to pursue a mutually satisfactory resolution.

### **Patient Confidentiality**

You must maintain patient confidentiality, including the confidentiality of all medical records (paper and electronic). MLH will adhere to and enforce the HIPAA Privacy and Security Regulations (Health Insurance Portability and Accountability Act of 1996). Confidential information includes a patient's name, address, telephone number, Social Security Number, medical diagnosis, birth date, admission and discharge date, etc.

Accessing patient health information requires an authorized purpose such as treatment, payment, and/or healthcare operations. You may only access confidential patient information for reasons such as being directly involved in the patient's care or performing a job role that requires a need to know such information.

A medical record or the information contained in a medical record should only be released if:

- A valid consent to the release of the information is obtained from the patient or his/her guardian or patient representative.
- Reporting the information is required or permitted by law.

## **Patient Records**

- Patient care must be necessary, appropriate and well documented.
- Documentation may include what services were provided, physician authorization, verification of patient eligibility, proper coding, accurate billing and claims, or other information as required by law, regulation or policy.
- Documentation in patient medical records should be complete, legible, current, accurate, and truthful. Healthcare providers should document the actual items and services that are provided to the patient. You should never make false or misleading entries in a patient record.
- If documentation in the patient medical record is changed or edited, the change should be made according to MLH policy.
- Medical records should be maintained, stored and protected according to MLH policy and applicable laws.
- Medical Records should be properly disposed of according to MLH policy.
- Medical Records should never be changed or destroyed to hide a mistake or omission, or to seek fraudulent payment for items or services.

## **Quality of Care**

At MLH, our mission is to be the leader in providing high quality, cost-effective healthcare services to the communities we serve. Our patients are our top priority. As reflected in our vision, we strive to work in partnership with physicians to deliver outstanding care to each patient. We work together to strive to meet the acceptable national standards in quality of care and to comply with federal and state regulations regarding the delivery of clinical care (i.e., Centers for Medicare and Medicaid Services (CMS) – Conditions of Participation). Quality healthcare will be provided to the patients based on the physician’s medical assessment of needs and documented physician orders. Healthcare workers, who provide care to patients, should be adequately trained and have the proper state license (e.g., Registered Nurse) for the job roles assumed as caregivers. At MLH, physicians treating patients must be credentialed and granted privileges by the MLH Board, have the proper state licensure, have the required training in the appropriate field of medicine, and have professional liability insurance coverage. Healthcare providers should practice within the scope of their license. For example, a Registered Nurse may not perform x-rays or other diagnostic scans on a patient that a licensed Radiology Technician should perform.

## Substandard Care

The Office of Inspector General (OIG) issued supplemental guidelines to hospitals in January 2005, regarding substandard care to patients. Substandard care is defined by the OIG as an individual or entity (i.e., hospital) providing unnecessary or substandard items or services to any patient:

- Unnecessary – “Items or services in excess of the needs of a patient.”
- Substandard – “Items or services of a quality which fails to meet professionally recognized standards of health care.”

Individuals and entities can be excluded from participation in Federal Healthcare Programs for either of these compliance violations. The exclusion can be applied even if the patient is not a Medicare or Medicaid beneficiary.

According to the *OIG Supplemental Compliance Program Guidance for Hospitals*, Medicare participating hospitals must meet all of the Medicare Hospital Conditions of Participation (COP's), including quality assessments and performance improvement programs and medical staff services. State survey agencies or national accreditation organizations (i.e., Joint Commission on Accreditation of Healthcare Organizations) determine if a hospital is compliant with the COP's.

To prevent substandard care, the OIG recommends that hospitals:

- Review the quality of care provided to patients.
- Monitor the quality of medical services rendered.
- Oversee the credentialing and peer review of medical staff.

## ***QUESTIONS AND ANSWERS:***

**Q: If I learn that an Associate is performing patient care with a suspended nursing license, should I report this to anyone?**

**A:** Yes. You should immediately report this to your supervisor and to the Human Resources Department, or to the Corporate Compliance Department, so that this issue may be investigated. Associates must have a valid current license and any applicable certification that is required for their job role at MLH. Associates, physicians and other caregivers are responsible for maintaining a current and valid professional license and appropriate certification if required by MLH and/or federal and state law.

**Q: Are Associates and Physicians, who have been granted access to electronic patient health information, permitted to view any patient’s confidential information, such as a co-worker who has been admitted to a MLH hospital?**

A: No. All Associates, physicians, and others, who have been granted access to patient health information (medical records), may only access this confidential information for authorized purposes, including treatment, payment, and/or healthcare operations.

An individual, who views confidential patient health information or Protected Health Information (PHI) out of curiosity such as for a co-worker or neighbor, is violating the HIPAA Privacy Regulations and MLH policies. At MLH, Associates will face corrective action for violations. In addition, individuals violating HIPAA Privacy Regulations may face hefty government fines and imprisonment for improperly disclosing or obtaining PHI.

**Q: As an Associate at MLH, how should I report a suspected HIPAA Privacy violation?**

A: Associates should report violations of HIPAA Privacy to the Privacy Officer at MLH. If an Associate wishes to remain anonymous, the Associate may report privacy violations to the Corporate Compliance Hotline at 1-888-220-2163. The report will be forwarded to the Privacy Officer to review and address.

**Q: Identity Theft is a serious problem in today’s time, including the theft of patient information. What role should Associates at MLH play to help prevent the occurrence of identity theft?**

A: Associates should abide by HIPAA Privacy/Security Regulations and MLH policies and procedures to prevent unauthorized individuals from accessing patients’ Protected Health Information (PHI). Suspected cases of unauthorized access to or theft of patient confidential information should be immediately reported to the Privacy Officer and the Security Department for review. Associates should implement physical safeguards as identified in MLH HIPAA Privacy and Security policies to protect PHI. See the HIPAA Privacy and Security web site on MOLLI for additional information.

## ***BUSINESS ASPECTS***

### **Conflict of Interest**

A conflict of interest arises whenever an individual's interest or that of his or her immediate family conflicts or appears to conflict with the interests of MLH. You have a duty to avoid conflicts of interest or the appearance of conflicts of interest. Conflicts of interest may harm this organization. If you are faced with a personal transaction, decision or other situation that you think may create a conflict of interest, you should promptly report it to your supervisor, the Human Resources Department, or the Corporate Compliance Department for review. Any proposed activity involving a potential conflict of interest must be disclosed to and approved by Human Resources and the Senior Executive responsible for the operating unit.

Note: Immediate family is defined as spouse, children, father, mother, sisters and brothers (and their spouses), in-laws, and any other relatives, or significant others living in your household.

### ***Potential Conflicts of Interest***

#### **Competitors and Suppliers**

- You may not invest in any company that is a supplier or competitor of MLH without stating this fact in writing to MLH as required by policy.
- Ownership of less than 5% or \$10,000 of a business' publicly traded securities is not deemed to be a conflict of interest and does not need to be reported. However, Directors, Officers, and Certain Associates are required to report in the Conflict of Interest Form self and immediate family ownership of 5% or \$10,000 or more in any outside concern. This includes companies from which MLH may purchase goods or services, or to which it sells goods and services, or which MLH may compete with.
- Certain Associates or members of their immediate families may not be able to work for, provide service to, or serve as officers or directors of a competitor or supplier of MLH. Please refer to current MLH Conflict of Interest policies.
- MLH Associates receiving wages or salary through payroll may not be further engaged as a subcontractor, consultant, vendor, supplier, or otherwise contracted to perform services for any MLH organization without prior notification and proper authorization.

#### **Gifts and Entertainment**

- You may not ask for and should not accept personal gifts, loans, services, trips, entertainment (includes tickets to events), or substantial favors of any kind from any patient, healthcare provider, customer, vendor or company doing or seeking to do business with MLH. Examples of personal gifts are – monetary gifts (cash, gift

certificates, checks), vendor sponsored personal travel or lodging, or personal meals.

- You must never accept bribes or kickbacks.
- You must adhere to all vendor policies implemented by MLH.
- A patient's choice of selecting MLH as his or her provider should not be improperly influenced by the receipt of gifts or other benefits from MLH.

## **Loans**

- You and your immediate family may not loan to or borrow money from customers and vendors (excludes financial institutions that you conduct business with).

## **Property of Methodist Le Bonheur Healthcare**

- You may not use or permit others to use MLH property, services, or information for personal benefit or for the gain of others.
- MLH assets may be used for MLH business purposes only. Company assets include office equipment and supplies, computers and software, MLH records, company funds, medical equipment and supplies.
- Use MLH assets responsibly and resourcefully. Prevent waste, loss, theft, and abuse of company assets.
- You must obtain proper authorization for the use of company property or the expenditure of company funds for non-business purposes.
- Inappropriate activity involving the improper or unauthorized use or theft of MLH property or funds, may lead to corrective action, up to and including termination from MLH and legal prosecution.

## **Outside Employment**

- Employment with non-MLH companies must not interfere or conflict with the performance of your job duties at MLH. For example:
  - Use of MLH time or resources for non-company functions.
  - Influence decisions due to your financial interest or position held at a competitor's company.
- Associates who accept secondary employment ("moonlighting" or "consulting") with another hospital or competing business must disclose to Human Resources the nature of the work relationship before the employment begins. Human Resources will determine if a conflict of interest exists.

- If you have academic commitments outside MLH, those commitments may not interfere or conflict with your employment at MLH.

### **Business Opportunities**

- You are prohibited from taking personal financial advantage of a business opportunity as a result of your association with MLH. Examples of business opportunities include real estate transactions, patents, and other personal gain transactions.

### **Diversion of Business**

- You should not participate in any activity that may shift business from MLH to yourself or to other non-MLH entities.

### **Confidential Information**

- At MLH, confidential information includes – protected patient information in medical records, personnel data, financial data and statements, computer software, equipment, and other information that has not been published or disclosed to the general public.
- Sharing information between and among Associates is encouraged where it supports MLH’s mission of improving healthcare delivery.
- The use of confidential, non-public information for personal advantage is prohibited.
- The release of confidential information is prohibited unless authorized. Examples of authorized releases include press releases, advertisements or management announcements that are made by appropriate departments or individuals.
- The care of a patient is always a confidential matter. The information related to MLH business and plans are confidential. It is your responsibility to safeguard information so that it is kept confidential. Violation of a confidence may subject you and the organization to legal risks. Only designated Associates may release information to or about patients.

### **Agents and Consultants**

- Individuals who provide services to MLH as agents or consultants are required to observe the same Standards of Conduct as Associates of MLH.

For further information on Conflicts of Interest, please refer to the *MLH Conflicts of Interest Policy (S-05-032)* for Associates, and the *Conflicts of Interest Policy (S-01-000)* for Board Members, Officers and Certain Other Associates.

## ***QUESTIONS AND ANSWERS:***

**Q: A patient was very appreciative of the patient care provided to him while at MLH. He offered a tip of \$25 to each Associate on the unit. Can we accept this gift?**

**A:** No. Receiving tips or gratuities is not allowed at MLH. If a patient sends a small gift of insignificant value for the unit, such as flowers or a fruit basket, this may be accepted since it is not considered a tip or gratuity.

For questions regarding the acceptance of gifts from a patient, Associates should contact your supervisor, the Human Resources Department, or the Corporate Compliance Department.

**Q: An Associate confided to me that her spouse has formed a company and is submitting a proposal to do business with MLH. What should happen in this case?**

**A:** It is that Associate's responsibility to disclose the conflict to her supervisor and not have any direct or indirect participation in the decision-making process regarding whether the company should be approved as a MLH vendor. This disclosure should also be made to the Materials Management Department.

## *Antitrust Laws*

Antitrust laws forbid companies from doing business in a way that gives them unlawful control in the market place. Their purpose is to preserve competition. These laws may affect your dealings with patients, doctors, payers, suppliers, and competitors of MLH. For purposes of the antitrust laws, member facilities of MLH are not competitors of one another. However, hospital and healthcare providers not controlled by MLH should be considered competitors.

The antitrust laws are violated if competitors agree to:

- Fix prices or pricing methods.
- Allocate patients, payer contracts, or regions.
- Boycott or refuse to do business with a payer, physician, provider or other party for improper reasons. Such refusals may include the denial or cancellation of medical staff memberships or privileges.

Antitrust violations can be claimed even without a written or oral agreement. It is possible to claim that a violation of the antitrust laws has occurred if two competitors have had an opportunity to consult with each other, and appear to be cooperating to control the marketplace. For this reason discussions of certain issues with competitors should be avoided if the discussions concern:

- Prices or payer rates.
- The desire to deal with a particular payer or group of payers, or patient or group of patients.
- The granting of membership, privileges, or managed care participation status to any physician, healthcare provider or group of providers.
- Salary ranges.

You should contact your supervisor, your Compliance Liaison, the Legal Department, or the Corporate Compliance Department with any questions.

## *Financial Matters*

You are required to maintain the financial records of MLH in an accurate and complete manner. MLH has a high standard of accuracy and completeness for its financial records. These records serve as the basis for managing the business, for measuring and fulfilling MLH's obligations to patients, Associates, suppliers and others, and for compliance with tax, regulatory and financial reporting requirements.

- As a charitable institution, MLH acts in accordance with IRS regulations governing tax exempt organizations.
- It is the policy of MLH to comply with the reporting requirements of applicable laws, established financial standards and generally accepted accounting principles.
- You must follow the accounting, reporting and control procedures that MLH has put into place.
- You must provide full access and cooperation to MLH auditors or the Corporate Compliance Department's designees, as well as records, supporting documents and files requested.
- Under no circumstances will records be falsified, back-dated, intentionally destroyed or otherwise tampered with for any fraudulent purpose or to gain a real or perceived advantage for MLH. However, appropriate purging of unnecessary documents in accordance with proper written procedures is acceptable.
- You will hold all financial information confidential. Release of financial information will be made only after consideration of the interests of MLH and with the express consent and authorization by appropriate management staff.
- Accounting controls will provide reasonable assurance that:
  - Financial contracts are carried out with management's approval.
  - All transactions are recorded to help us prepare our financial statements and account for assets.
  - Access to assets is permitted only with management's approval.
  - Recorded assets are periodically compared with existing assets. Any differences should be reported to management.

The financial matters of MLH, its Associates, physicians, and patients are private. You should not reveal these matters to outside parties without permission from the organization's Chief Financial Officer. However, should you have concerns regarding any questionable accounting, internal accounting controls, or auditing matters you should contact your supervisor, a Compliance Liaison, the Corporate Compliance Department, or the Corporate Compliance Hotline.

## ***Cost Reports***

The Medicare Healthcare Cost Report is the statistical and financial information that is required to be filed with the Fiscal Intermediary in accordance with Federal Regulations. Medicare Cost Reports should accurately reflect the operating costs associated with patient care. Costs considered non-allowable according to the Medicare Regulations should be identified and excluded on the cost report. The Revenue Management Department is responsible for the preparation, submission, and settlement of cost reports. The Revenue Management Department gathers financial and statistical information and reports these findings in the Medicare Cost Report. The cost reports and related paperwork is reviewed on an annual basis.

Cost reports that are determined to be false need to be corrected and refiled with the Fiscal Intermediary. A false cost report is a cost report that has been filed with the Fiscal Intermediary that is determined to contain inaccurate data or data that is not in compliance with Federal Regulations.

If an overpayment to MLH occurs as a result of a false cost report, the overpayment should be returned. The Fiscal Intermediary or Carrier should be notified immediately when it is determined that an overpayment has occurred, and should be provided a time frame for repayment. Documentation should be maintained of the written explanation of the nature of the overpayment that accompanied the returned payment.

## ***QUESTIONS AND ANSWERS:***

**Q: What is a Fiscal Intermediary?**

**A:** A Fiscal Intermediary is a government contracted entity responsible for processing, reviewing, and auditing Medicare Cost Reports. (i.e., TriSpan)

## ***Coding and Billing***

One of the largest risk areas for hospitals is the preparation and submission of claims for payment from Federal Healthcare Programs. All services provided to our patients at MLH will be accurately and properly coded and billed according to regulatory and contractual requirements. No false statement should be made in connection with a claim for payment or an application for certification under Medicare or Medicaid. We will bill only for services actually rendered and in the amount that we are entitled to receive.

According to the Office of Inspector General (OIG), all claims and requests for reimbursement from Federal Healthcare Programs, including supporting documentation, must:

- Be complete and accurate.
- Reflect reasonable and necessary services ordered by a participating provider who is a properly licensed medical professional.

### ***QUESTIONS AND ANSWERS:***

**Q: What should I do if I have reason to believe that a provider has given inaccurate information related to the level of service provided to a patient?**

A: Ask the provider for additional information. If you are not satisfied with the answer you receive, or believe inaccurate information is still being given, immediately notify your supervisor or the Corporate Compliance Department. You should never accuse the provider of wrongdoing. A review will be undertaken and if wrongdoing is proven, it will be handled through the appropriate process.

**Q: What should I do if I believe that an Associate is upcoding services?**

A: Upcoding services for higher reimbursement than what MLH is entitled to receive is a compliance violation of the MLH policy and law (False Claims Act). Associates are held accountable for reporting compliance violations to your supervisor, Compliance Liaison, to the Corporate Compliance Department, or to the Corporate Compliance Hotline for review and determination of corrective action. Failure to report this compliance violation may expose the organization to fines and penalties and possible exclusion from Federal Healthcare Programs. Also, errors in coding and billing should be promptly corrected prior to filing a claim. If the claim was already billed to the payor, the payor should be immediately notified to stop improper payment. If MLH received the payment, arrangement should be made according to our policy to refund the overpayment to the payor (i.e., Medicare or Medicaid).

Coders and Billers must have the proper training and qualifications to perform these important job functions. All services must be accurately coded and billed according to regulations, laws, contractual requirements, and the MLH policies

and procedures. It may be determined that the Associate requires additional training and reinforcement of the requirements for coding and billing. However, if it is determined that the Associates is intentionally violating the MLH policies, Medicare and Medicaid requirements, and the law, corrective action will be implemented, including possible termination.

**Q: While coding services for a patient, I noticed that there was no documentation in the medical records for a particular service. Should I still code and bill this service because I assume that it was done?**

A: No. Coding and billing must reflect the actual services rendered to a patient based on supporting medical documentation, including patient conditions and diagnoses, in the medical record. According to the MLH Health Information Management *Documentation Guidelines*, if it is not documented, it will be perceived as not done. You should never assume that a service was provided. If proper documentation is not present in the medical record as required for billing purposes, then the bill should not be submitted to the payor for payment.

## ***Government Funds and Contracts***

Methodist Le Bonheur Healthcare receives grants and other money from government funded programs such as Medicare and Medicaid. Due to the complexity of government contracts, they should not be entered into without review by the Legal Department. Failure to observe government rules and regulations can result in the loss of funds or grants, and civil and criminal penalties. For example, it is a federal crime to make a false statement to a federal official.

If you work with government funds in an area such as Medicare or Medicaid billing or with a federally funded grant, you must know the applicable rules and regulations. Ignorance of the law is not an excuse. You should contact your supervisor or your Compliance Liaison if you have any questions regarding these rules.

Payments from government contracts and grants are based on costs. Only costs allowed by a contract may be billed to the government. Costs should be recorded in an accurate and consistent manner. If you are responsible for charging costs to a government contract or grant, you are expected to do so in a reasonable and honest manner.

## *Intellectual Property*

- Intellectual property includes patents, trademarks, trade secrets, copyrights, proprietary information, software licensing agreements, and inventions or techniques.
- Intellectual property is protected by federal and state laws.
- Violations of the intellectual property laws may result in personal civil damages or criminal charges.
- In addition, the entire MLH Organization may be held responsible for the actions of individual Associates who break the intellectual property laws.
- Inventions or techniques created by Associates of MLH during the course of their employment are the property of MLH, unless there is a written agreement with MLH stating differently.
- The use of company information for your individual purposes is prohibited.
- Associates will not provide MLH's confidential or proprietary information to unauthorized individuals including our competitors, suppliers, vendors, or external contractors. Proprietary information includes financial information, patient lists, policies and procedures, and company manuals. You are not to give proprietary information to unauthorized individuals even if your employment is terminated at MLH (either voluntarily or involuntarily).
- During the course of employment, you may have access to intellectual property owned by other businesses. This information is private and should not be disclosed to others. Licensed computer software is an example of intellectual property owned by another business. Copying computer software or the materials that accompany it violates the copyright laws and corporate policy. The use of illegal copies of software on company hardware is prohibited.

The following activities also may violate intellectual property laws:

- Installing software programs on more than one computer when it was sold for only one computer. You should determine how many computers are permitted to use a multiple unit software package before ordering or installing software.
- Copying (by machine or hand) an entire issue of a journal, magazine, or newsletter. Unless permission is obtained from the publisher to make such copies, the original should be circulated within a group or several subscriptions purchased.
- Copying for distribution (by machine or hand) articles from journals, magazines, or newsletters against the wishes of the publisher.
- Forwarding or copying for distribution certain information published on the Internet, if copyright protected.

## ***Human Resources Aspects***

### **Employment Matters**

- You are expected to abide by all federal, state, and local laws and regulations dealing with employment matters and safety (i.e., OSHA).
- Personal Associate information maintained in the Associate's personnel file may be viewed only by authorized personnel who have a legitimate business or legal need to know.

### **Health, Safety & Environment**

The health and safety of all Associates and visitors and the protection of the working environment are of great importance at Methodist Le Bonheur Healthcare. Policies, manuals and training programs concerned with the environment of care and safety are available.

Methodist Le Bonheur Healthcare pledges:

- To continue to develop procedures and conduct training programs to meet legal standards on health, safety, and environmental protection.
- To consider the effects that new developments have on the environment.
- To recognize and respond to community concerns about the effects of our business on the environment.

You are expected to:

- Use your best efforts to ensure that actions are carried out in a safe and healthy manner.
- Know the safety procedures that apply to your job.
- Learn the procedures for handling and disposal of any hazardous materials used in your job.
- Share ideas for improving safety and reducing waste with your supervisor.

Health, safety, and environmental protection includes efforts to reduce the generation of waste. Wastes should be recycled or reused whenever possible. Wastes that cannot be recycled or reused should be discarded in a safe manner. Hazardous waste disposal policies are established in accordance with law and regulation.

## ***Political Activity***

You are encouraged to take part in community and political affairs and to vote in elections. If you participate in such activities, you should make it clear that you are acting as a private citizen and not as a representative of MLH.

If you take part in a political activity as a representative of MLH, you are responsible for:

- Complying with all laws relating to political activities.
- Conducting all relationships with public officials, candidates, and government employees in an ethical and honest manner.
- Providing complete and accurate information to government agencies.
- Avoiding using your position with MLH to gain any benefit for yourself or MLH.

## ***Physician Recruitment and Retention***

Entities that operate on a not-for-profit basis are subject to additional rules relating to the recruitment and retention of physicians. For example, these rules prohibit private inurement. Private inurement occurs when a not-for-profit business pays an individual or group of individuals more than the market price for services provided to the business. In some cases, the rules governing recruitment and retention also may require that the community benefit from the decision to hire a physician or buy a physician's practice. Keeping a written record of community benefit is an important part of all physician recruitment activities.

If your job involves the recruitment and retention of physicians, it is advisable that you consult the MLH Physician Recruitment and Retention policies for further details.

## ***Medicare/Medicaid Anti-Fraud and Abuse Laws***

Entities that receive funds for services provided under Medicare and Medicaid are subject to several laws and regulations designed to prevent fraud. These laws were created to make certain that federal funds, which finance Medicare and Medicaid, are used only for those purposes. Failure to obey these laws can result in fines, jail, or exclusion from Medicare and Medicaid programs. The following are a few of the laws relating to fraud and abuse:

### **Anti-Kickback Statute**

The Anti-Kickback Statute is a federal law, known officially as the Medicare/Medicaid Anti-Kickback Statute. Anyone who willfully offers, pays, seeks or receives anything of value to bring about a referral for medical services or goods payable under Medicare or Medicaid violates this law. Failure to obey this law can result in fines, jail, or exclusion from the Medicare and Medicaid programs. This law prohibits kickbacks and bribes. It also affects the way in which healthcare entities carry out a broad range of ordinary business deals.

The following activities are illegal under the Anti-Kickback Statute:

- Waiver of co-insurance or deductibles for reasons other than real financial hardship. Exceptions exist.
- Offer or acceptance of payment that is other than fair market value for healthcare services as a way of securing more Medicare or Medicaid business.
- Financial or other improper incentives given to physicians that are linked to numbers of referrals, including free medical supplies and equipment, documented discounts, gifts, write-offs, or free rental space.

The following activities should be monitored to assure compliance with the Anti-Kickback Statute:

- Space and Equipment Leasing
  - Discounts on Goods and Services
  - Management and Personal Services Contracts
  - Physician Practice Purchases
  - Physician Recruitment and Retention
  - Employment Relationships
  - Managed Care Initiatives.
- 
- Physicians should never accept extravagant gifts, entertainment, or a financial bonus as an incentive for the referral of patients to MLH, or to compromise healthcare decisions or the quality of patient care.

- MLH may not offer special incentives or other benefits to patients in exchange for their choice to select MLH as their healthcare provider. This includes the routine waiver of deductibles on co-insurance, discounts on items and services, routing of reimbursement transportation costs, and other valuable benefits. Federal law prohibits the influencing of a patient’s choice of provider or services with these improper incentives or kickbacks.

## **Stark Law – Physician Referrals**

The federal Self-Referral Law or “Stark Law” prohibits a physician with a financial relationship with any entity from making a referral to that entity for the furnishing of “designated health services” for which payment may be made under the Medicare or Medicaid programs, unless the relationship or service qualifies under a Stark Law statutory exception. The Stark Law also prohibits an entity from billing the Medicare or Medicaid programs for items and services ordered by a physician who has a financial relationship with that entity, unless an exception applies.

To comply with the Stark Law:

- You must not ask for or receive, or pay or offer to pay any remuneration (money or anything of value) of any kind (including rebates, kickbacks or bribes), in exchange for referring or recommending the referral of any individual to another person, hospital or medical facility of MLH for services or in return for the purchase of goods or services to be paid for by Medicare or Medicaid;
- You must not offer or grant any benefit to a referring physician or other referral source on the condition that such physician or referral source refer or agree to refer any patients to a person or medical facility;
- Physicians must not make referrals for designated health services to entities with which the physician has a financial relationship either through an ownership or a compensation arrangement unless the law provides an exception.

Hospitals and physicians that knowingly violate the Physician Self-Referral Law may be fined (civil monetary penalties) and excluded from Federal Healthcare Programs; and, may face liability under the False Claims Act. Also, a hospital-physician relationship that qualifies for a Stark Law exception may not comply with the Anti-Kickback Statute; so, this relationship should be assessed for compliance.

For questions regarding the Stark Law, please contact the MLH Legal Department or the Corporate Compliance Department.

## ***The Deficit Reduction Act of 2005***

The Deficit Reduction Act of 2005 (Section 6032 in the Social Security Act) was signed into law by President Bush on February 8, 2006. The Deficit Reduction Act (DRA) includes healthcare specific provisions, some of which are designated to eliminate Medicaid fraud, waste and abuse. The DRA requires that any entity that receives or makes annual payments under the State plan (Medicaid/TennCare) of at least \$5 Million per year must provide detailed information to its employees and contractors about the Federal False Claims Act (FCA), and any existing State FCA. States have been offered incentives by the DRA to enact State FCA laws to prevent fraud and abuse in the Medicaid Programs. Tennessee is one of the few states to have enacted a State FCA.

### **False Claims Act**

The False Claims Act is a federal statute that prohibits a person from “knowingly” submitting a false, fictitious, or fraudulent claim to obtain payment from the government (including Medicare, Medicaid and other federal and state programs.) The False Claims Act prevents the occurrence of fraud, waste and abuse in the Medicare and Medicaid Programs. This act was originally enacted in 1863 as the Federal Civil False Claims Act, known as the “Lincoln Law”, to address fraud committed by government contractors during the Civil War.

At MLH, honesty and accuracy in billing and in the filing of claims for Medicare or Medicaid payment is mandatory. It is a federal felony to willfully make a false statement in connection with a claim for payment or an application for certification under Medicare or Medicaid.

At MLH, when preparing and submitting billing for medical services and supplies, it is important to:

- Accurately bill and submit claims for payment from Medicare and Medicaid.
- Properly code items and services billed.
- Do not submit false or fraudulent, or misleading claims for payment from or statements to any government agency, healthcare program, or third-party payer.
- Do not misrepresent services actually rendered.
- Bill for claims for services that were accurately ordered and actually provided.
- Use accurate billing codes that describe the actual items or services provided.

At MLH, we will maintain records with proper medical documentation to enable accurate billing. Without the appropriate documentation to substantiate services and items provided, we must assume that the services were not provided and must not be billed. Proper documentation of medical necessity by healthcare providers will be maintained. The documentation will be provided to government and private payers and insurers upon request.

If an error is noted in a claim, bill or code, an investigation will be conducted and a correction will be made prior to the submission of the bill or claim. Errors submitted to

Medicare or Medicaid should be reported to your supervisor and the Corporate Compliance Department. Errors in billing will be corrected promptly. Corrective action plans must be forwarded to the Chief Compliance Officer, according to the MLH Corporate Compliance Investigations Policy.

MLH will promptly notify the payer of any improper payments or overpayments (i.e., duplicate payments), and will refund improper payments received as a result of a billing or processing error by MLH.

## **Consequences of Failure to Comply With The False Claims Act**

Failure to comply with the False Claims Act can result in severe damages to healthcare providers and suppliers, including:

- Federal False Claims Act:
  - A mandatory civil monetary penalty ranging from \$5,500 to \$11,000 per false claim submitted.
- For the Tennessee False Claims Act:
  - Liability for the costs of a civil action brought to recover penalties or damages.
  - And, liability for a civil penalty of not less than \$2,500 and no more than \$10,000 for each false claim.
- In addition, the provider and supplier have liability for repayment of three times the amount of damages sustained by the government.
- The FCA mandates both a fine and imprisonment for all convictions. It is a felony to violate the FCA. The maximum prison sentence is 5 years.
- For providers and suppliers convicted of violating the False Claims Act, the OIG may exclude them from participation in Federal Healthcare Programs and the receipt of federal payments for claims for items and services.

## **Qui Tam “Whistleblower” Protection**

The Department of Justice reported that for 2005, the federal government has collected more than \$15 billion since the FCA was amended in 1986. Of the \$1.4 billion collected from settlements and judgments for fraud committed against the government in 2004 - 2005, \$1.1 billion was recovered from qui tam suits or lawsuits. The fraud committed included false healthcare claims.

The False Claims Act contains a “Qui Tam” or **whistleblower** provision. The FCA authorizes persons or private parties, having direct knowledge of fraud or false claims submitted to the government, to file a lawsuit on behalf of the government. According to the FCA, an individual who has direct and independent knowledge of the information that the allegations are based on and voluntarily provides the information to the government may initiate qui tam actions.

To initiate a qui tam action, a private party – whistleblower or relator – files a lawsuit on behalf of the government in a federal court. The whistleblower files a complaint and provides relevant documentation “under seal”, and serves the documents on the Department of Justice. While the lawsuit is “under seal”, it is kept confidential, and the fraud allegations in the complaint are reviewed and investigated by the government.

The government will determine whether to intervene or to pursue the action, or to decline intervention in the action. If the government intervenes, the Department of Justice (DOJ) will direct the lawsuit. If the lawsuit is successful, the qui tam plaintiff may recover from 15% up to 25% of the proceeds of the action or the settlement. The percentage awarded depends on the qui tam plaintiff’s substantial contribution to the prosecution. In addition, the qui tam plaintiff is entitled to recover reasonable expenses, including attorneys’ fees and costs for bringing the lawsuit.

If the government declines intervention or elects not to pursue the lawsuit, the whistleblower may independently pursue the lawsuit. When the government does not intervene, the qui tam plaintiff can recover from 25% to 30% of the proceeds of the action or the settlement. And, the qui tam plaintiff is entitled to recover reasonable expenses, including attorneys’ fees and costs. Note: Tennessee False Claims Act and Tennessee Medicaid False Claims Act: Under Tennessee law, the qui tam plaintiff could receive a minimum of 25% and up to 50% of the proceeds depending on whether the government intervenes or not and the court’s discretion in awarding the plaintiff the amount it considers appropriate.

The False Claims Act provides whistleblower protection rights for filing an action or lawsuit under the False Claims Act or for other lawful acts, including participation in an investigation of a false claim, or in a False Claims action, in which assistance or testimony is provided. The False Claims Act prohibits retaliation of employees who file a lawsuit or cooperate in an investigation or provide testimony. Whistleblowers, who have experienced retaliatory conduct, may receive relief from the government in the form of employment reinstatement, back pay, and other compensation resulting from retaliatory action.

At MLH, we encourage our Associates and healthcare providers to report compliance violations of laws and regulations, policies and procedures, and our Standards of Conduct; this includes the reporting of violations of the False Claims Act (FCA). Associates should report inappropriate coding, billing, or documentation practices to your supervisor, Compliance Liaison, or to the Corporate Compliance Department. MLH also has a Corporate Compliance Hotline – 1-888-220-2163 (Toll Free), on which Associates may report compliance violations, such as violations of the False Claims Act, in an anonymous manner. This Hotline is available 24 Hours a Day/ 7 Days a Week.

## **Methodist Le Bonheur Healthcare Non-Retaliation Policy**

Methodist Le Bonheur Healthcare has a Non-Retaliation Policy (S-10-013 – *Prohibiting Retaliation Against Associates, Individuals, or Others*) to protect Associates and other individuals from retaliation for:

- Reporting in good faith perceived misconduct, including actual or potential violations of laws, regulations, policies, procedures, or the MLH Standards of Conduct.
- Assisting, or participating in an investigation or compliance review.

Methodist Le Bonheur Healthcare will:

- Maintain an "open-door policy" at all levels of management to encourage Associates to report problems and concerns.
- Protect against retaliation toward any Associate, individual, or other.
- Subject any Associate, who commits or condones any form of retaliation, to discipline and corrective action up to, and including, discharge.

MLH Leaders and the Chief Compliance Officer will investigate allegations of retaliation against Associates who report compliance violations.

Please refer to the “Reporting Potential Compliance Violations” section in the Standards of Conduct for additional information regarding reporting compliance violations at MLH.

## **Compliance Policies and Procedures**

To view the MLH compliance policies and procedures that address the prevention of and investigation of fraud and abuse or to obtain additional compliance information, please refer to MOLLI and view System Policies or the Corporate Compliance Department web site. MLH policies include: *Corporate Compliance Program Policy (S-08-001)*, *Corporate Compliance Investigations Policy (S-08-0002)*, *Physician Practice Coding and Billing Area Risks (S-01-031)*, etc.

## **References for Deficit Reduction Act and False Claims Act**

David E. Matyas & Carrie Valiant, *Legal Issues in Healthcare Fraud and Abuse: Navigating the Uncertainties*, 2006.

Health Care Compliance Association, *A Supplement to Your Deficit Reduction Act Compliance Training Program: An Overview of the False Claims Act and Federal Health Care Programs*, 2006.

Aspen Health Law and Compliance Center, *Health Care Fraud and Abuse Compliance Manual*, July 2001.

See *Social Security Act, Section 6032*[Amends Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a) amended)]. Deficit Reduction Act.

See 31 USC Section 3729 - 3733. Federal False Claims Act.

See TCA 4-18-101 - 4-18-108. Tennessee False Claims Act.

See TCA 71-5-181 - 71-5-186. Tennessee Medicaid False Claims Act.

## ***QUESTIONS AND ANSWERS:***

**Q: The MLH Standards of Conduct mentions that Associates must implement compliance efforts to avoid fraud and abuse. Please define fraud and abuse and provide examples of each.**

**A:** Definitions:

**Fraud –**

A deliberate deception practiced or misrepresentation made by a person or entity in order to obtain money, healthcare benefits, or other gain by unlawful acts. The Medicare and Medicaid Anti-Fraud Laws and other Federal and State Laws specify what constitutes fraud.

Examples of Fraud:

- Submitting false claims to Medicare or Medicaid for medical or healthcare services that were never provided.
- Documenting on a claim form that more complicated procedures were performed than those actually provided, resulting in higher cost of services.

Definition:

**Abuse –**

Abuse occurs when a provider not knowingly or intentionally misrepresents the facts in claims for items and services, and receives payments when there is no legal entitlement to the payments. Abuse may lead to unnecessary costs to the Federal Healthcare Program, improper payment, or payment for services that are not medically necessary or fail to meet criteria for professional standards of care.

Examples of Abuse:

- Claims for services or items not medically necessary, or not medically necessary to the extent the provider claimed to provide and billed for.

**Q: The False Claims Act prohibits a person from “knowingly” submitting a false, fictitious, or fraudulent claim to obtain payment from the government in order to prevent the occurrence of fraud, waste and abuse in the Medicare and Medicaid Programs. What does it mean to “knowingly” submit a false claim?**

**A:** If a person files a claim where he “knowingly” submitted a false, fictitious, or fraudulent claim to obtain reimbursement from Medicare or Medicaid or other federal or state programs, the person knew or should have known claim submission requirements, and acted with sufficient intent to violate the law.

To act “knowingly”, a person:

- Knows the information provided in the claim to be false; or
- Acts in deliberate ignorance of the truth or falsity of the information provided in the claim; or
- Acts in reckless disregard for the truth or falsity of the information provided in the claim.

In the 1986 FCA amendment, the requirements for intent was changed, in that no proof of specific intent to defraud the government is required in order to show a violation of the FCA.

**Q: It is a violation of the False Claims Act to file a false, fictitious, or fraudulent claim to obtain payment from the government. Please define the term “claim”.**

**A:** According to the False Claims Act, a “claim” is defined as any request or demand for money which is made to the government or its contractors.

**Q: Please provide some examples of violations of the False Claims Act.**

**A:** Violations of the False Claims Act may include:

- Submitting a false claim to the government to obtain payment.
- Submitting a claim for medically unnecessary services.
- Knowingly making false statements or providing false information.
- Falsifying records.
- Double-billing for items or services.
- Upcoding – Using a billing code, other than the intended code, to receive a greater payment than applicable.
- Submitting bills for items never provided and services never rendered.
- Filing a claim for payment in which the services were not rendered exactly as claimed.
- Unbundling – Billing for a product or service in individual components, rather than as a whole to obtain higher reimbursement.
- Filing false cost reports to healthcare programs such as Medicare or Medicaid.
- Filing a claim for a physician’s service, when the service was actually provided by an unlicensed physician or misrepresented that the physician was certified in a particular medical specialty.

## *Government Inquiries*

In the event of any pending Corporate Compliance related governmental investigations or audits, Methodist Le Bonheur Healthcare will cooperate with governmental agencies. Government agencies include: the Office of Inspector General, the Centers for Medicare and Medicaid Services, the Federal Bureau of Investigation, the Department of Justice, the Tennessee Bureau of Investigation, the United States Attorney's Office, the State Department of Health, and the State Department of Human Services and their agents. All external requests and inquiries by the governmental agency should be forwarded to the Corporate Compliance Department or Legal Department according to MLH policy.

If an Associate, major vendor, agent, or contractor is contacted by a federal or state governmental agency listed above, the Corporate Compliance Department or the Legal Department should be notified immediately.

In the event of a Corporate Compliance related governmental inquiry or investigation, Associates are expected to follow the *MLH Corporate Compliance Investigations Policy*, including:

- Ask the government official for identification and a business card that identifies the investigator and the agency represented.
- If you are contacted while working at MLH, immediately contact your supervisor or other senior manager, and the Corporate Compliance Department or Legal Department.
- Immediately forward documentation such as a subpoena, notice of audit, information request, or any other related document to the Corporate Compliance Department or Legal Department.
- Always tell the truth. If an Associate does not recall something, the Associate should feel free to say so. The Associate should speak only to the facts they are aware of.
- Do not destroy, remove, or hide documents or electronic data.
- Understand you have the right to have someone present. An Associate has the right to consult an attorney prior to speaking with an investigator. In some instances, MLH may provide legal counsel; however, prior approval from the Legal Department is required.
- Do not instruct other Associates or witnesses not to talk with government agents.

At no time will MLH directly or indirectly pay or offer a bribe or kickback (including gifts, entertainment) to any federal, state, or local government official, which may violate governmental restrictions for government employees. Report to the Corporate Compliance Department and the Legal Department any government employee request for gifts, bribes, or kickbacks.

## *Accountability/Corrective Action*

Methodist Le Bonheur Healthcare has established and may apply appropriate corrective actions or sanctions against members of the workforce and other agents and contractors who fail to comply with our policies and procedures, Standards of Conduct, and laws and regulations.

Appropriate corrective action will be taken against any Associate who:

- Directly violates company policies, Standards of Conduct, or applicable laws, and regulations.
- Fails to report known compliance violations.
- Retaliates against another Associate or individual for reporting a suspected compliance violation.
- Deliberately makes a false report against another Associate.
- Refuses to cooperate in the investigation of a violation.

Adhere to the Methodist Le Bonheur Healthcare's Non-Retaliation Policy that protects Associates from retaliation, threats, or harassment from other Associates and Leaders when reporting, in good faith, possible compliance violations.

## *Act Appropriately*

Sometimes making the right decision to ensure effective compliance can be difficult or confusing. Common sense and sound judgment are your best guides in deciding how you should act. However, if you find yourself in a situation where you are unsure of the ethical implications, ask yourself a few simple questions:

- Is this in the best interest of Methodist Healthcare and the patients we serve?
- Is this the right thing to do?
- Are my actions legal?
- Am I being fair and honest?
- Will my action stand the test of time?
- How will I feel about myself afterwards?
- Would I be proud to read about this in the newspaper or see it on the news?

If you are still in doubt or need clarification, contact one of the resources provided in these Standards, such as your supervisor, your Compliance Liaison, the Legal Department, Human Resources Department, Associate Relations, or the Corporate Compliance Department.

**Please Remember:** Your commitment to do the right thing contributes to our goal of maintaining a culture of compliance in our organization. By adhering to and embracing the Standards of Conduct, you are demonstrating your commitment to our mission of providing high quality, cost-effective healthcare to benefit the communities we serve.

## ***Reporting Potential Compliance Violations***

You have a duty to report possible violations of applicable laws, regulations, company policies and procedures, and our Standards of Conduct. The Corporate Compliance Department will review these reports, and may work in collaboration with other departments (i.e., Human Resources) in the investigation of potential compliance violations. Failure of an Associate, Physician, Vendor, or Other Individual to report compliance violations may place the organization at risk for irreversible damage; and, may prevent the immediate implementation of measures to resolve a violation or to prevent the escalation of a small issue into a major problem for the organization.

All inquiries or reports of violations will be handled in a confidential manner. Concerns may be raised anonymously to the Corporate Compliance Department or to the Corporate Compliance Hotline. Anonymous reports that provide adequate information to permit an investigation will be pursued. The caller should provide important details such as the department and facility where a violation occurred, names of individuals involved, events of the compliance violation, etc. Anonymity may make it more difficult to investigate and resolve an inquiry. We encourage you to identify yourself so that we may conduct appropriate follow-up.

To report possible compliance violations you may, without fear of retaliation, contact any of the following:

- Supervisor - Associates are encouraged to report suspected violations to your supervisor. If you feel issues are unresolved after reporting violations to your supervisor, or you are uncomfortable speaking to your supervisor or to senior management, then you are encouraged to contact the Corporate Compliance Department or to call the Compliance Hotline.
- Compliance Liaison
- Corporate Compliance Department

Lynn Field, Chief Compliance Officer	(901) 516-0563
Linda Maners, Manager, Compliance Department	(901) 516-0735
Kim Sharpe, Senior Paralegal	(901) 516-0868
- Corporate Compliance Hotline  
1-888-220-2163 (Toll Free)      Available 24 Hours a Day/ 7 Days a Week

To report possible violations of HIPAA Privacy/Security, please contact:

- Meg McGill, Privacy Officer      (901) 516-2778
- Andy Fowler, Chief Information Officer      (901) 516-0034